

Message Text

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H:L K SNELL (INFO)

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FM SECSTATE WASHDC

TO AMEMBASSY TOKYO

UNCLAS STATE 114721

E.O. 11652: N/A

TAGS: EGEN, JA

SUBJECT: YEN CONVERSION FOR SUNTORY REAL ESTATE PURCHASE

1. MR. ROBERT D. WITTE OF BRONXVILLE, NEW YORK, HAS WRITTEN SECRETARY VANCE AND SENATOR JAVITS ASKING FOR HELP TO FACILITATE THE APPROVAL BY THE JAPANESE GOVERNMENT OF THE CONVERSION OF JAPANESE YEN TO US DOLLARS TO PERMIT THE COMPLETION OF A CONTRACT OF SALE OF A HOUSE BY HIM TO SUNTORY LIMITED.

2. A RIDER TO THE CONTRACT SIGNED DEC 31, 1977, STATES

"1. THIS AGREEMENT IS CONDITIONED UPON THE PURCHASER OBTAINING APPROVAL FROM THE JAPANESE GOVERNMENT TO REMIT THE PURCHASE PRICE. SUCH APPROVAL WILL BE OBTAINED BY PURCHASER AT ITS OWN COST AND EXPENSE AND PURCHASER HEREBY AGREES TO EXPEND ITS BEST EFFORTS TO OBTAIN THAT APPROVAL. PURCHASER REPRESENTS THAT IT WILL SUBMIT ITS APPLICATION TO THE JAPANESE GOVERNMENT IMMEDIATELY FOLLOWING EXECUTION OF THIS AGREEMENT AND KNOWS OF NO REASON WHY SUCH UNCLASSIFIED

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APPROVAL SHOULD NOT BE GRANTED. IN THE EVENT SUCH APPROVAL IS DENIED, PURCHASER SHALL NOTIFY SELLER IN WRITING OF THE DENIAL, AND THE BASIS FOR THE DENIAL, IF KNOWN. FOLLOWING

SELLER'S RECEIPT OF SAID NOTICE, THIS AGREEMENT SHALL BECOME NULL AND VOID AND SELLER SHALL RETURN TO PURCHASER ALL MONIES PAID ON THIS AGREEMENT.

"2. THE PARTIES HAVE AGREED THAT TIME IS OF THE ESSENCE OF THIS AGREEMENT. SHOULD PURCHASER FOR ANY REASON, INCLUDING BUT NOT LIMITED TO NON-RECEIPT OF APPROVAL BY THE JAPANESE GOVERNMENT, ADJOURN THE CLOSING DATE SET FORTH IN PARAGRAPH 23 FOR MORE THAN 20 DAYS, THEN THE PURCHASE PRICE AND THE BALANCE TO BE PAID AT CLOSING SHALL BE INCREASED AS FOLLOWS:

"(A) IF CLOSING TAKES PLACE MORE THAN 20 DAYS AFTER THE DATE SET FORTH IN PARAGRAPH 23, BUT LESS THAN 35 DAYS THEREAFTER, THE PURCHASE PRICE AND BALANCE DUE AT CLOSING SHALL BE INCREASED TO \$101,100 AND

"(B) AT ANY TIME THEREAFTER, UP TO AND INCLUDING JUNE 30, 1978, THE PURCHASE PRICE AND THE BALANCE DUE AT CLOSING SHALL BE \$103,600.

"FAILURE OF PURCHASER TO CONSUMMATE CLOSING ON OR BEFORE JUNE 30, 1978 WILL BE A BREACH OF THIS AGREEMENT, WHEREUPON SELLER'S OBLIGATIONS AND PURCHASER'S RIGHTS UNDER THIS AGREEMENT SHALL TERMINATE. IN SUCH EVENT, PURCHASER SHALL BE LIABLE TO SELLER FOR REASONABLE DAMAGES FOR BREACH OF THIS AGREEMENT. THE PARTIES RECOGNIZE AND ACKNOWLEDGE THAT IT IS DIFFICULT TO DETERMINE THE ACTUAL AMOUNT OF DAMAGES WHICH WILL BE SUFFERED AND SUCH DETER-
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MINATION WOULD ENTAIL ADDITIONAL EXPENSE TO EACH, WHEREFORE, THE PARTIES HAVE AGREED THAT REASONABLE DAMAGES IS THE AMOUNT OF \$5,000. SUCH BREACH SHALL NOT INVALIDATE THE PURCHASER'S OPTION TO PURCHASE THE PREMISES PROVIDED BY SUBPARAGRAPH (C) AND (D) OF PARAGRAPH SIXTEENTH OF THE LEASE REFERRED TO IN PARAGRAPH 7 OF THIS RIDER.

"7. THIS AGREEMENT IS AN EXERCISE OF THE OPTION TO PURCHASE THE PREMISES SET FORTH IN A LEASE AGREEMENT BETWEEN SELLER AND NOBUO KURAMITSU DATED THE 12TH DAY OF JULY 1977.

3. MR. WITTE WROTE THAT HE HAS BEEN INFORMED BY SUNTORY THAT THE JAPANESE GOVERNMENT HAS ALLEGEDLY REFUSED TO APPROVE THE TRANSFER AND THAT HE HAD UNDERSTOOD THAT THIS SORT OF APPROVAL WOULD BE QUICKLY AND EASILY OBTAINED. SUNTORY TOLD HIM THAT IT EXERCISED BEST EFFORTS TO THE BANK OF JAPAN FOREIGN EXCHANGE CONTROL OFFICE, YET, THERE

HAS BEEN DISAPPROVAL.

4. ACTION REQUESTED: REQUEST EMBASSY INQUIRE INTO THIS
MATTER SO AS TO EITHER EXPEDITE THE APPROVAL OR PROVIDE
AN EXPLANATION OF THE ALLEGED DISAPPROVAL OF TRANSFER.
DEPT WOULD APPRECIATE REPLY BY APRIL 26. CHRISTOPHER

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